

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

PATRICK GREER and)	
TRACEY GREER,)	
)	
Plaintiffs,)	
)	
v.)	No. 21-cv-2474-MSN-tmp
)	
WASTE CONNECTIONS OF TENNESSEE,)	
INC., PATRICK E WATT, and)	
JOHN/JANE DOES 1-5,)	
)	
Defendants.)	

ORDER DENYING DEFENDANTS' MOTION TO EXCLUDE EXPERT TESTIMONY AND
REPORT OF PLAINTIFFS' ORTHOPEDIC EXPERT, KENNETH WEISS, M.D.

Before the court is the defendants' motion in limine to exclude the expert testimony and report of Dr. Kenneth Weiss, M.D. (ECF No. 200.) The plaintiffs filed their response on July 31, 2023. (ECF No. 223.) This motion was referred to the undersigned. (ECF No. 250.) After carefully reviewing the entire record, including the expert report, curriculum vitae, and the parties' briefs, the undersigned finds that a hearing is not necessary. For the reasons below, this motion is DENIED.

The defendants argue that Dr. Weiss's expert report failed to provide a complete statement of all opinions to which he is expected to testify in violation of Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure. (ECF No. 200 at PageID 4261.)

Specifically, the defendants argue that Dr. Weiss's report is only three pages long and fails to contain a complete statement of all the opinions to which he is to testify at trial. (ECF No. 200-1 at PageID 4270-71.) The plaintiffs argue that the report includes the following:

(1) the facts of Dr. Weiss's examination generally, (2) his opinions on his examination of Mr. Greer's cervical spine, (3) his opinions on his examination of Mr. Greer's knees and legs, (4) his interpretation of Mr. Greer's knee X-ray, neck X-rays, and neck MRI, (5) his opinions and diagnosis of Mr. Greer's knee and neck symptomology, (6) a note outlining his opinion on Mr. Greer's need for future medical treatment, and (7) a listing of additional records that Dr. Weiss reviewed in forming his opinions.

(ECF No. 223 at PageID 5595-96) (internal footnotes omitted).

Dr. Weiss's report includes three pages of narrative summaries and treatment notes, his CV, legal fees, previous cases for which he offered testimony, and copies of the medical records that he consulted in preparing his IME. (ECF No. 200-2.) The narrative summary of his IME includes the following:

[Patrick Greer] presents for evaluation of right knee pain. He was the restrained driver traveling 60[]mph on westbound I-240 on 9/22/2020. He was driving a 1997 Ford ranger pickup truck. As he was driving a wheel came off on east bound garbage truck. He began to slow the truck and he turned the wheel sharply when he realized the tire was coming toward him. He though [sic] he missed the tire when it landed in the bed of his truck. On impact he said the axle of the truck broke and all 4 tires popped. The truck began spinning and sliding uncontrollably toward the guard rail. The truck hit the guard rail just behind the driver side door. He was knocked unconscious. When he came too, he was being pulled out of the truck by firefighter. He was then take

[sic] to Regional One. He said in the crash the steering wheel hit his right middle thigh. He says he went to his primary care the next day due to significant leg pain. He subsequently went to Campbell Clinic where he was sent for physical therapy and and [sic] MRI. He continued with physical therapy for several months with minimal relief. He then transitions to seeing Dr. Burnholt who performed a knee arthroscopy on his right knee. After the surgery he said the knee was some [sic] better. He still complains of clicking and popping. He also complains of swelling and pain with twisting motions. He points to the front of the knee as the point of maximal pain.

He also complains of neck pain following the accident. He was later diagnosed with a concussion and a traumatic brain injury. Following the crash, he required hearing aids and glasses. He says the pain in his neck is a sharp, stabbing pain between his shoulder and up the neck. He says his neck is tight and often has muscle spasms. He has previous [sic] tried dry needling with minimal relief. He was sent for an MRI which revealed a collapsed disc along with a bulging disk. He received an ultrasound guided neck injection in June which provided temporary relief for 1-2 weeks. He says the pain travels down his left arm to the middle of the forearm. If his neck pops, then he gets a shooting pain that goes down to his finger on his left hand. He complains of tingling in the entire left arm. . . .

35-year-old gentleman who presents with a history that began with a motor vehicle collision on 9/22/2022. He sustained multiple injuries including a traumatic brain injury. His main orthopedic injuries were to the right knee and his neck. He subsequently underwent a right knee arthroscopy for a chondral injury sustained in the accident. He is continue [sic] to have some pain as far as the knee is concerned. The treating surgeon has recommended a chondral preservation procedure in the future. We would defer any further surgery with the previously treating surgeon. However, our recommendation would be to proceed with viscosupplementation. He also has MRI findings of a left-sided C6-C7 disc herniation. More probable than not, this will require a nerve block in the future including the possibility of multiple nerve blocks. If after the nerve blocks, he still is extremely symptomatic in the neck and the arm then it is

more probable than not that he will require surgical intervention of the cervical spine in the future. More probably than not, Mr. Greer's knee injury and disc herniation at C6-7 were caused by the 9/22/2022 motor vehicle crash. I provided my future medical recommendations that Mr. Greer will need as a result of the 9/22/2022 motor vehicle crash.

(ECF No. 200-2 at PageID 4278, 4280.) The report includes other notes from the examination, including his general appearance, his C-spine, his knees, interpretations of an x-ray and MRI, and his overall impressions of Greer's knee and neck pain. (Id. at PageID 4279-80.) Based on a review of the expert report, the undersigned finds that the report sufficiently provides a complete statement of opinions to which Dr. Weiss will testify. Therefore, this motion is DENIED.

IT IS SO ORDERED.

s/Tu M. Pham

TU M. PHAM

Chief United States Magistrate Judge

November 21, 2023

Date